



pennsylvania

OFFICE OF OPEN RECORDS

The Office of Open Records webinar will begin soon

- Use the “Conversation” box to submit questions
- Submitted questions are records under the RTKL
- After the webinar ends:
 - Email openrecords@pa.gov or call 717-346-9903
- OOR website has resources for agencies & requesters
 - <https://www.openrecords.pa.gov/>



pennsylvania

OFFICE OF OPEN RECORDS

Erik Arneson, Executive Director

About OOR Mediation

Phone Number: 717.346.9903

<http://openrecords.pa.gov>

Presented by:

Delene Lantz, General Counsel

Dlantz-joh@pa.gov

Office of Open Records

Created by RTKL: Independent & quasi-judicial

- Decide appeals filed by people denied access to records by government agencies
- **20 total staff**
 - Executive Director & Deputy Director
 - 13 Attorneys
 - Chief of Training & Outreach
 - 4 Administrative staff

OOR Mediation program

Section 1310(6) of the RTKL:

Establish an informal mediation program to resolve disputes under this act.

65 P.S. § 67.1310 (a)(6).

Alternative Dispute Resolution

Alternative to litigation

Benefits

- Cost benefits
- Faster results
- Opens a dialogue between parties

Voluntary informal process

OOR Mediation

Either party can select the mediation box on the OOR appeal form.

- If the box is selected the appeal is stayed for 7 business days from the date the appeal was filed to allow the appeals officer to get both parties consent.
- Checking the mediation box also automatically provides the OOR with a 30 calendar day extension to issue a Final Determination if mediation is unsuccessful.

Appeal Form



RIGHT-TO-KNOW LAW ("RTKL") APPEAL OF DENIAL, PARTIAL DENIAL, OR DEEMED DENIAL

Office of Open Records ("OOR")

Email: openrecords@pa.gov

Fax: (717) 425-5343

333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

Today's Date: _____

Requester Name(s): _____

Address/City/State/Zip: _____

Email: _____ Phone/Fax: _____ / _____

Request Submitted to Agency Via: Email Mail Fax In-Person (check only one)

Date of Request: _____ Date of Response: _____ Check if no response

Name of Agency: _____

Address/City/State/Zip: _____

Email: _____ Phone/Fax: _____ / _____

Name & Title of Person Who Denied Request (if any): _____

I was denied access to the following records (**REQUIRED** Use additional pages if necessary): _____

I requested the listed records from the Agency named above. By signing below, I am appealing the Agency's denial, partial denial, or deemed denial because the requested records are public records in the possession, custody or control of the Agency; the records do not qualify for any exemptions under § 708 of the RTKL, are not protected by a privilege, and are not exempt under any Federal or State law or regulation; and the request was sufficiently specific.

I am also appealing for the following reasons (Optional. Use additional pages if necessary): _____

- I have attached a copy of my request for records. (**REQUIRED**)
- I have attached a copy of all responses from the Agency regarding my request. (**REQUIRED**)
- I have attached any letters or notices extending the Agency's time to respond to my request.
- I hereby agree to permit the OOR an additional 30 days to issue a final order.
- I am interested in resolving this issue through OOR mediation. *This stays the initial OOR deadline for the issuance of a final determination. If mediation is unsuccessful, the OOR has 30 days from the conclusion of the mediation process to issue a final determination.*

Respectfully submitted, _____ (**SIGNATURE REQUIRED**)

You should provide the Agency with a copy of this form and any documents you submit to the OOR.



MEDIATION PROGRAM

The Right-To-Know Law (RTKL) authorizes the Office of Open Records (OOR) to establish an informal mediation program to resolve RTKL disputes (*see* 65 P.S. § 67.1310(a)(6)). This is a voluntary process to help parties reach a mutually agreeable settlement on records disputes before the OOR.

Mediation, a facilitated conversation between the parties that can serve as a fair and efficient tool to resolve conflict, can save time and expense.

How to Request Mediation

To participate in mediation, both parties must agree, in writing, to enter the mediation process.

When an appeal is filed with the OOR, the requester can check the box that says, "I am interested in resolving this appeal through OOR mediation." If the requester indicates an interest in mediation, the OOR will reach out to the agency to see if mediation is agreeable.

By entering the mediation program, the parties agree to participate in good faith.

What Happens During Mediation

Mediations are conducted by an OOR mediator. Most often, mediation sessions will take place via telephone conference. When convenient to the parties, a mediation session may take place in person.

Mediation sessions are not open to the public. All discussions, negotiations and materials created specifically for the mediation process are confidential. *See* 42 Pa. C.S. § 5949 (relating to the confidentiality of mediation communications and documents).

What Happens After Mediation

If mediation is successful -- in other words, the parties reach an agreement which resolves the issues underlying the appeal -- the requester will withdraw the appeal once he or she is satisfied with the agency's compliance with the mediated agreement.

If the appeal is withdrawn after a successful mediation, the OOR will not issue a final determination addressing the merits of the appeal. Instead, the OOR will issue an acknowledgement that the appeal was withdrawn as a result of a successful mediation.

If mediation is not successful, the traditional OOR appeal process will begin. Both parties will be able to make submissions to the OOR, and the OOR will have 30 calendar days from the conclusion of the mediation process to issue a final determination unless an extension is granted by the requester.

Mediation Resources

Request form



pennsylvania

OFFICE OF OPEN RECORDS

OOB MEDIATION AGREEMENT

OOB Dkt. No. _____ - _____

Requester Name: _____

Agency Name: _____

The Requester and Agency (collectively, the "Parties") agree to participate in the OOR's Informal Mediation Program to resolve the matters at issue in this appeal.

The Parties agree to participate in the mediation process in good faith. If the Parties agree, there may be more than one session if the Mediator determines that the appeal could be resolved. The Parties acknowledge that mediation sessions are not open to the public and the content of discussions during mediation is confidential and not admissible as evidence in this appeal.

The Parties agree to extend the Final Determination deadline in this appeal for 30 calendar days beyond the conclusion of the mediation process or, if the Requester agreed to grant the OOR a 30-day extension on the appeal form initiating this appeal, the Final Determination deadline will include that extension. If the Requester does not withdraw the appeal, the Mediator will indicate the conclusion of the mediation process in writing if further mediation sessions are not likely to result in a resolution of the dispute. The Parties acknowledge that this Mediation Agreement, the Requester's withdrawal, and the OOR's withdrawal acknowledgement will be included in the OOR's administrative appeal file and subject to public access.

Upon receipt of this completed Mediation Agreement, a Mediator will contact the Parties to establish a mutually convenient date, time and location to conduct a joint mediation session.

Requester Signature: _____ Date: _____

Agency Representative Signature: _____ Date: _____

Mediation Process

OOR Mediator receives the appeal file and contacts the parties.

- Mediations take place in person or through conference calls
- Mediation time frame
- Confidentiality of the process
- Unsuccessful mediations
- Completion of mediation process

Additional Resources

- www.OpenRecords.pa.gov
 - Citizens Guide
 - Agency Guides
 - Final Determinations and Key Court Decisions
- Open Records Officer Guidebook
- On Site Training = RA-DCOORTRAINING@pa.gov
- Twitter Feed = @OpenRecordsPa
- OOR Phone = 717.346.9903

Webinar Q&A

Please send your questions now

- Use the “Conversation” box to submit questions
- Submitted questions are records under the RTKL
- After the webinar ends:
 - Email openrecords@pa.gov or call 717-346-9903
- OOR website has resources for agencies & requesters
 - <https://www.openrecords.pa.gov/>